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THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

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Clerk at the Speaker's Table

It is not surprising that the procedure of the American house of representatives should be subject to frequent outbreaks of criticism. The house is the organ which voices the immediate wishes of eighty millions of very active people, who are not the least of humanity in their desire to have what they want. As they usually do not agree as to what they want, and as what they shall have must be determined by a majority of their representatives, there must necessarily be from time to time large minorities of dissatisfied persons. Some of these will, according to the laws of human nature, complain of the processes by which the representatives have attained the result. Just at present we are witnessing an active recurrence of this criticism, accompanied by some interesting prescriptions for alleged troubles. Whether or not the troubles exist and the nature of the proposed remedies are important subjects for examination.

At the outset it is necessary to inquire as to the exact relations of the house of representatives to our form of government. This will sweep away some of the plausible but very superficial theories of those who conceive it a disadvantage that our speakership should differ from the speakership of the house of commons, and who seem to think that our house might easily be directed in its procedure by the president's cabinet, as the house of commons is directed by the ministry of the crown. We are told with great jauntiness that in the early years of the republic the speaker of the house was simply a presiding officer like the speaker of the house of commons, and not at all a political leader.

What reasons support this theory? When the Constitution was framed the members of the convention spent very little time over the house of representatives. The reason of this is that the house was an existing political institution, each colony having had under its own peculiar name a house of representatives for many years. There was no debate whatever over the clause of the Constitution which provides that the house shall choose its speaker and other officers. There was a very good reason for this. That clause was taken from the State constitutions adopted in 1776 when the colonies threw off the sovereignty of England, and was an accepted doctrine of liberty, as opposed to the prerogative of the royal governors who had sometimes disallowed speakers chosen by colonial assemblies.

The Constitution, therefore, did not create the speaker, but adopted an existing officer; and a careful examination of the proceedings of the convention in relation to this fact, makes it plain that the speaker they adopted was the speaker of the colonial house of representatives, of whom they had intimate personal knowledge, rather than the speaker of the house of commons, whom they knew of in a theoretical way only.

What of those colonial speakers? Were they merely non-partisan presiding officers, or were they forceful, militant party chiefs? It might be presumptuous for one who has not studied exhaustively the colonial period to express an opinion as to all of them. But the assertion may be made confidently that many of them were militant party chiefs, personally and as speakers; and that this character of the colonial speakers was especially prominent in the ten years preceding the outbreak of the Revolution—a period of which the framers of the Constitution not only had vivid recollections, but had been a part. In 1766 James Otis, chosen speaker of the Massachusetts house, was so active a party leader on the patriotic side that the royal governor, using an authority which the Revolution afterwards abolished, disallowed his election. The royal governor of Georgia, in 1771, took the same course in regard to the election of Speaker Noble Wimberly Jones, who was not a neutral presiding officer but “a very strong Liberty Boy.” And he was not an exception in Georgia, for in 1765, as Bancroft tells us, “the great majority of the representatives, at the instance of their speaker, against the will of the governor” promised their adhesion

to a continental congress. And in 1774 in Virginia it was Peyton Randolph, the speaker of the house of burgesses, whom Bancroft calls the "organ of the people against the representative of the crown," who led the opposition to Lord Dunmore.

This, then, is the old colonial speaker, whom Washington, Franklin, Hamilton and their confrères, imported into the Constitution of 1787, the prototype of the great speakers of the national house of representatives.

Therefore the speaker as transported into the Federal Constitution was not a mere non-partisan presiding officer. Nor did he become so under the new government. Jonathan Dayton, speaker from 1795 to 1798, conducted himself so violently in partisan debate on the floor that he was called to order by the temporary occupant of the chair. Never was there a more active political leader in the speaker's chair than Henry Clay (1811, 1823) who as a regular habit participated in partisan debates in committee of the whole. It is only since the days of Carlisle and Reed that the speakers have ceased to participate in debate; and Reed, at least, and probably Carlisle also, refrained for the express reason that such participation tended to draw the office too much into partisanship. It seems presumptuous to say so, in view of the apparently learned disquisitions on the other side of this subject, but the cold fact is that the speakers of today, as far as their functions as presiding officers are concerned, are more free from partisanship than were the earlier speakers.

It is not necessary to give much space to the theory that cabinet officers of the president should sit in our house and direct business because they do so in England. In England cabinet officers are, in fact, responsible to the house of commons for their acts and their tenure. Therefore they are always politically in sympathy with the majority of the house rather than with the king, whose political acts and utterances they direct. In this country the majority of the house is frequently opposed politically to the executive. Those who favor the engrafting of the English system on our house, may see the humor of their proposition if they will try to imagine the cabinet of Andrew Johnson trying to force his policies through the republican house of the fortieth congress, against a hostile majority led by Thaddeus Stevens; or it may be easier to frame the picture in a more modern setting, and

imagine Rutherford B. Hayes' cabinet trying a similar experiment in the democratic house of the forty-fifth congress, led by Samuel J. Randall and filled with a majority who were continually crying that Hayes was a "fraud." But, perhaps, if the house would not accommodatingly yield its politics to the president, the president, in order to have an English system imported, might subordinate his acts and utterances to a cabinet selected by the house of representatives. The alacrity with which a recent chief executive would yield to such an arrangement will readily picture itself in the minds of all political theorists.

Has not the United States gone on very well under its present Constitution and its own traditions? Are other peoples so much happier, and other governments so much more successful, that we should abandon institutions developed according to the genius of our own people, in order to copy foreign institutions?

One familiar with the procedure of the house for the last fifteen years cannot be otherwise than surprised at the confidence of the assertions that the house has ceased to be either a deliberative body or an efficient legislating body. Those who know well its practice will rather believe that no other legislature of its size, as to membership and quorum, has a system equaling it in fairness, liberality and efficiency. On the great questions of revenue and appropriations, which are the first questions among all free peoples, its system is famous for the unrivaled manner in which it concentrates searching and intelligent deliberation on every item, without discrimination between members as to party or length of service. And its more formal debates are regulated with equal liberality and fairness. The statement that no member speaks without securing prior consent of the speaker has hardly a shred of truth by which to hang. The speaker recognizes for debate, it is true, and there is no appeal from his recognition because the house cannot afford time for such a process; but the speaker recognizes, in the great majority of instances, not arbitrarily, but according to certain usages which have the force of rules. And these usages secure recognitions to those members who, by the arrangement of committees and business, are presumably best informed on the subject, for and against the pending proposition. Of course every egotist in the house may not intrude himself into the first place in every debate. A system

that permitted this would be intolerable, although it would please the egotists and would cut off one very noisy source of criticism. But even as it is no egotist suffers from the tyranny of the modest men. The story is frequently told, and used as a conclusive argument, that Mr. Speaker Reed thanked God that the house was not a deliberative body. It was true that he did once give utterance to such an expression, but it was when someone told him of a senator who had spoken four or five hours to the empty seats of his disgusted colleagues, and proposed to continue the performance on the next day. The speaker was thankful that the hour-rule, which, by the way, had then existed for fifty years, did not permit such a performance in the house. It was one of the great aims of Mr. Speaker Reed, as those who knew him can testify, to restore to the house that orderly, intelligent deliberation which the fathers had known, and which the violence of the filibuster had impaired. He overthrew the filibuster, and as the passions of that conflict subsided, the old deliberation gradually returned. In the last twelve years, under normal conditions, the house has been a real deliberative body. When abnormal conditions arise, as they did at the end of the first session of the sixtieth congress, the majority are obliged to declare a form of martial law in order to do the business necessary for the supply of the government. But such conditions are wholly exceptional, and have arisen only two or three times in twelve years.

The demonstration that the modern speaker is a normal, and not an abnormal, example of the speaker of the Constitution, does not, however, answer the criticism that too much power is given him by the rules. At this point it is necessary to guard against a confusion of ideas. The man whom the representatives of the people chose as their chief will ordinarily be a man of great personal influence. The election of speaker is not like a popular election, where the voters' knowledge of the candidate is derived second-hand. Most of those who elect a speaker know him personally, from intimate association and observation on the floor of the house. The politician who cultivates reputation, by judicious posing and advertising, will hardly advance far in the house, unless he be one of the rare individuals of his kind who have the actual character to go with the reputation. On the other hand, the blunt, honest man, who values the truth above the

praise of men, and is willing to risk popularity in doing his duty, always commends himself strongly as his fellows come to know him in the struggles and contentions of the great hall. The influence of character is one of the greatest powers in politics. Hence, the one who is chosen speaker will always be powerful in his own right, so long as the speaker is chosen after the manner of our American fathers, as a leader of the house. If leadership is to be placed elsewhere in the body, the strong man or men of the house will gravitate to the new depository, and the speaker, having become a mere presiding officer, will undoubtedly degenerate in character and influence.

The great source of the speaker's power is the function of appointing the committees, which he has exercised for more than a hundred years. All propositions are referred to the committees for consideration and report. Members may refer bills to committees with great freedom, but if a committee fails or declines to report, the member may not move to discharge the committee for the reason that the regular order of business includes no place for such a motion, and a demand for the "regular order" shuts it out. It is probably necessary that this be so, for if the member might move to discharge a committee, the house would be confronted with a possibility of more than twenty thousand of such motions, since a vast number of bills are referred to committees. The house is not powerless, however, against an obstinate or neglectful committee, as the motion to discharge a committee may be adopted by majority vote on being reported by the committee on rules, which is composed of the speaker and four other members.

This grasp of the committees on the business of the house is the main citadel of the speaker's power so far as it is dependent on the rules. The main element of it is the appointing power, since the discharging power is lodged in a committee, wherein his authority is necessarily considerably modified.

But the appointing power is far from absolute. In a new congress there will not ordinarily be vacancies in more than a third of the places on any committee, and on the important committees, where the strongest men are gathered, the proportion is usually less. It is a usage not often disregarded that a man once appointed to a committee remains there until promoted to a more desirable post. Mr. Sereno E. Payne has served on ways and means, which is the greatest committee of the

house, for twenty years, and Mr. John Dalzell has been on the same committee for eighteen years. This illustrates the permanency of tenure, which does not change with changes of party control in the house. It is manifest that, with these conditions existing, it is very difficult for a speaker to make up a committee according to personal whim, or "pack" it, as the phrase goes. He can and always does aim to add to each committee new men who will continue the committee in certain general policies favored by his party. In other words, he acts as the responsible agent of party government. During the last six years, Mr. Speaker Cannon has permitted the minority leader to name the minority members of the committees, thus restricting still further his own opportunities for moulding the sentiment of the committees.

A great political philosopher, Edmund Burke, has given a description of party government worth recalling in this connection:

"Party is a body of men united for promoting by their joint endeavors the national interest, upon some particular principle in which they are all agreed. For my part, I find it impossible to conceive that any one believes in his own politics, or thinks them of any weight, who refuses to adopt the means of having them reduced into practice. It is the business of the speculative philosopher to mark the proper ends of government. It is the business of the politician, who is the philosopher in action, to find out proper means towards those ends, and to employ them with effect."

It is not conceivable that the house of representatives will ever permit the efficiency of party control and party responsibility to be impaired by any irresponsible method of selecting its committees. Is there any better method than by placing the duty on a speaker, who must perform it in full view of the house and the nation, with no possibility of evading the responsibility? The only other alternative would be to have the appointments made by a committee, which would necessarily operate in practical secrecy, and wherein each member might, when challenged, shift responsibility to his fellows, so that the house and the nation could never locate it definitely, except after laborious inquiry.

The power of the speaker, as it is related to the committee on rules, is much overestimated. When a committee has once reported a bill,

that bill is in the hands of the house. The speaker and the committee on rules are alike powerless to prevent its consideration and passage. They may accelerate its progress by reporting a special order, and they do this for a few bills, perhaps a dozen out of a thousand or more at a session of congress. The committee on rules exercise the function as responsible party agents; and in modern practice the special order has, in fact, taken the place of the party caucus. There was once a great outcry against "King Caucus." That is heard no more, and in place of it we hear only denunciations of the committee on rules. The majority members of that committee inform themselves thoroughly of the sentiment of the responsible party in the house. If members of the responsible party feel that the committee on rules is not acting in conformity with the party sentiment, a caucus may be called on the demand of fifty members; and the committee would not think of disregarding the pronounced wish of that caucus. And at the recent organization of the house, the republican caucus specified the members who should be appointed to represent the party on the committee. This makes the committee on rules in theory what it has long been in practice.

For the purpose of a large house of representatives and a populous nation, could there be a better system? The responsibility for the organized efficiency of the controlling party in the house is placed on the speaker, a conspicuous officer of high character. If he betrays or mal-administers the trust confided in him and does not proceed according to the main lines of his party's policies, his party associates may replace him in the next congress. Indeed, it is possible at any time for a majority of the house to remove its speaker. It has several times removed its clerk or doorkeeper, who, like the speaker, are officers of the house under the constitution.

If the speaker is sustained by his party in the house in his organization of the committees, but that organization does not subserve the public will, then the people know at once where to put the responsibility, namely, on the responsible majority party.

It is of prime importance that a self-governing people should know readily and definitely where to place responsibility, and the present rules of the house further this purpose admirably as to the great questions at issue. As to the minor questions, it is not so easy to fix respon-

sibility, because the speaker, in framing the committees, usually fills only the vacancies in each new congress, and reaches the extent of his opportunities when he has provided for the main lines of party policy. All other systems of arranging committees must necessarily have the same limitations as to minor questions.

To a thoughtful man the query naturally arises: "If the present system is so excellent, why are the speaker and the rules criticised so constantly?"

The answer is simple. Having a considerable degree of power as to directing the house in the main lines of his party's policy, the country and many members of the house assume that he may be equally potent as to every minor and local question. Possibly he might for a short time and for a limited number of questions. But as he is the leader of his party in the house, his every act commits or compromises that party. Hence it is wiser to leave the minor and local questions to be passed on, first by the committees to which they are referred under the rules and then, if the committees endorse them, by the house itself. The house may pass any bill which a committee has reported; and the rules give the speaker no power to prevent.

But the minor and the local matters are usually of great importance to the political prospects of a few members, and of so little interest to the whole house that it is often beyond the power of their friends to muster the votes to get action on them. Hence the speaker is importuned constantly to assist the member to get unanimous consent to set the rules aside and force consideration by a short cut. The speaker, being responsible for the great lines of policy, especially for the sum-total of expenditures, must be very cautious about entering into these arrangements. And when he refuses, the member, if he be human, makes haste to write his constituents that he could pass the bill if the speaker would give the opportunity. The bill usually involves the expenditure of national money in a way very desirable to the member's constituents; and they unite with him in denouncing the speaker and the rules. Sometimes the work affects several districts, or even several States, thus giving greater body and momentum to the criticism.

At the first of the present session certain changes were made in the rules, one of which permits bills to be placed on a calendar for unan-

imous consent. This calendar is to be called twice a month and will enable members to get their bills before the house without supervision of the speaker. The effect of the arrangement will be to relieve the speaker of an irksome and dangerous responsibility and distribute it among the members. It may diminish the speaker's power in the house somewhat; and it will certainly relieve him of a source of unpopularity in the country.

Several other changes were made at the same time, including the establishment of a Calendar Wednesday, when the house will be forced to consider certain business which it has hitherto been neglectful of, preferring to go on with the great, essential bills and then adjourn. Some of the new business will consist of general and public measures which have perhaps been unduly neglected; but much of it will be of local and personal concern, bringing charges on the treasury for advantage of localities. Another change makes it easier for the minority party in the house to obtain record votes on propositions of legislation which it may desire to put forward.

The effect of the recent changes as a whole is to take away from the speaker certain functions and vest them in the members, and to restrict somewhat the house's power to go at any time to any matter of business on its calendars. Members who desire to get action on bills of interest to their constituents rather than of general interest will be relieved. The house will also be forced to act on some bills of national interest which it would prefer to let go to a more convenient season.

One great fact should never be forgotten in this connection: The house of representatives is the one great organ of the government which must stand at the door of the people's treasury and pronounce the "superb *No.*" It is also the body on which rests, primarily, the power of taxation. All free peoples have found by sad experience that they may not trust their executives with the power of taxation or with access to their treasuries, and the fates of Charles I and Louis XVI have taught executives that this power is not to be desired. It is a power which brings unpopularity if exercised conscientiously, and if exercised recklessly and lavishly, tends to oppression and revolution.

Those who think references to Charles I and Louis XVI far fetched, when used in this age as illustrations of the political perils attending

the raising and appropriating public moneys, may review with interest the revolutions attendant on the exercise of these powers, even by the American people themselves through their representatives. In 1890 the republican majority in the house of representatives went to the political scaffold, because the people were dissatisfied with the McKinley tariff bill, then only a few weeks in operation, and in 1894 the democratic majority went to the same fate because of the Wilson bill. In each of these uprisings scores of congressmen were sacrificed to popular disapproval. There was no violence, for our fathers provided a wise method of frequent appeals to the people. The people themselves must exercise the taxing and appropriating power because they alone are interested, and they must necessarily exercise it through their representatives who are elected for short terms, and who must account frequently to those who trust them. A portion of these representatives may be led by local desires or sentiment to favor certain outlays; but the majority must consider the matter in its relation to other outlays, in its bearings on the whole people and the state of the treasury, and must not be swerved by the clamors of those who do not see beyond their own horizons.

Demosthenes in his time declared that abuses of government were usually discovered by impulses of private enmity, and John Quincy Adams at the end of a long political career said that this was as true in the United States as in ancient Athens. Criticism of the house of representatives by those who do not get from it the legislation they may desire, is perfectly legitimate and may be very useful. It undoubtedly helped to bring about the reforms of 1890 in the rules of the house, whereby the public business was rescued from the grip of a factious minority. But usually such criticism is not, from the very nature of the case, well founded; and should be received with great circumspection by the press and the public.

There is one thing that brings results always in the house of representatives, and that is a majority of votes. And by "a majority of votes" is not meant a majority of gentlemen who—from the long habit of politics listen sympathetically or even approvingly to the unfolding of the great project by the enthusiastic promoter; but a majority who, after thoughtful examination, are willing to stand by and give their votes through several roll calls, and even after the clock over the

great doorway of the house has told off the dinner hour. Before a majority like that, all the powers which the rules give to the speaker and the committee on rules, are like dust before the wind.